

### **REMARKS**

Claims 1 and 8 are amended. Claims 1-8 are pending in the application.

Claims 1-8 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Son (U.S. Patent Publication No. 2005000037079). The Examiner indicates that applicant cannot rely on applicant's foreign priority papers to overcome this rejection since a translation of said papers has not been made of record. In accordance with 37 CFR § 1.55, applicant hereby submits a certified copy of the earliest priority document Korean Application No. 10-2003-0056557, a translation of the certified copy of the priority document, and the required statement indicating that the translation is accurate. Accordingly, the present application is afforded the filing date of August 14, 2003. Son '079 is therefore not prior art relative to the instant application.

Claims 1-8 stand rejected under 35 U.S.C. §103(a) as being unpatentable relative to Kross (U.S. Patent No. 6,664,301). The Examiner is reminded by direction to MPEP § 2143 that a proper obviousness rejection has the following three requirements: 1) there must be some suggestion or motivation to modify or combine reference teachings; 2) there must be a reasonable expectation of success; and 3) the combined references must teach or suggest all of the claim limitations. Each of these three factors must be shown, the burden of which is on the Examiner, in order to establish

a *prima facie* case of obviousness. Claims 1-8 are allowable over Kross for at least the reasons that Kross fails to teach or suggest each and every limitation of the claims and fails to provide a reasonable expectation of success.

Independent claim 1 is amended to correct a clerical error. Independent claim 1 recites a temperature-sensitive state-changing hydrogel that is transformed into a fluid state at 10-50°C. As indicated in applicant's specification, it is advantageous to provide a hydrogel that transforms to a fluid state at this temperature range to allow the ingredients to quickly come into contact with and/or permeate the skin (Page 12). In fact one of the goals of the invention is to have the hydrogel transform into a fluid or non-gel at or near skin temperature.

Kross discloses a goal of "strengthening" hydrogels. Nowhere does Kross indicate any conversion to fluid state upon application. In fact, Kross indicates heating to a temperature of 250°F to re-melt the hydrogels of that invention. Kross does not disclose or suggest the recited transformation to a fluid state at 10-50°C. Kross does teach strengthening hydrogels teaching away from transforming to a fluid state.

Taken as a whole, the Kross reference teaches methodology for strengthening hydrogels and sets forth goals of strengthening hydrogels. The reference discloses re-melting at 250°F. Accordingly, such reference does not provide a reasonable expectation of success for achieving the goal

of the present application which is to achieve a hydrogel that transforms to a fluid state at 10-50°C.

As acknowledged by the Examiner at page 4 of the present action, Kross does not teach or suggest the claim 1 recited concentrations of polymers and additives. The Examiner indicates that these concentrations would be obvious absent some showing of criticality. As set forth in applicants specification, the ranges of concentrations recited are critical for proper gel formation and to impart the ability to transform to a fluid state at 10-50°C.

As indicated above, Kross does not disclose or suggest each and every element recited in claim 1. Nor does Kross provide a reasonable expectation of success. Accordingly, a *prima facie* case of obviousness has not been established relative to claim 1.

Dependent claims 2-6 are non-obvious relative to Kross for at least the reason that they depend from allowable base claim 1.

As amended, independent claim 8 recited a method of forming a hydrogel composition wherein the hydrogel composition has the ability to transform into a fluid state at 10-50°C. Claim 8 is allowable over Kross for at least reasons similar to those discussed above with respect to independent claim 1.

For the reasons discussed above, claims 1-8 are allowable. Accordingly, applicant respectfully requests formal allowance of claims 1-8 in the Examiner's next action.

Respectfully submitted,

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Enclosures: Certified priority document Korean Application No. 10-2003-0056557; Verification of Translation; Translation of a certified copy of the earliest priority document Korean Application No. 10-2003-0056557